

STATE OF MISSOURI OFFICE OF THE SECRETARY OF STATE

IN THE MATTER OF:		
Philip L. Helton)	AP 04-83
Respondent.)	

CONSENT ORDER

WHEREAS, Respondent, Philip L. Helton, voluntarily disclosed to the Missouri Securities Division that he offered and sold viatical settlement contracts in the State of Missouri in violation of Section 409. RSMo Cumulative Supp. 2001 (hereafter "Missouri Securities Act");

WHEREAS, Respondent and the Securities Division desire to resolve and settle all claims and complaints between them in recognition of the expense and uncertainty of further litigation, acknowledging that this Consent Order is a full and complete resolution of all matters, claims, disputes or complaints between them regarding the subject matter contained herein;

WHEREAS, Respondent and the Securities Division consent to the issuance of this Consent Order and hereby stipulate that this Consent Order is in the public interest and;

WHEREAS, Respondent stipulates and agrees to the issuance of this Consent Order without further proceedings in this matter, agreeing to be fully bound by the terms and conditions specified herein. Respondent specifically waives his right to a hearing with respect to this matter. Respondent further stipulates and agrees that he hereby waives any rights he may have to seek judicial review or otherwise challenge or contest the terms and conditions of this Order.

STIPULATIONS OF FACT

Whereas, Respondent and the Securities Division stipulate and agree to the following Stipulations of Fact:

- 1. On or about August 27th 2004, Respondent, Philip L. Helton visited the offices of the Missouri Securities Division to disclose his sales of viatical settlement contracts in the State of Missouri.
- 2. Helton disclosed to an investigator employed by the Securities Division that, beginning in 1997; he sold approximately \$301,000 worth of viatical settlement policies to eleven Missouri investors.

- 3. Helton disclosed that he was entitled to a commission of 6% on each sale, resulting in income of \$18,060.
- 4. Helton also disclosed that he was entitled to 1% commission on the sales generated by another Missouri insurance agent that was also selling viatical settlement contracts, resulting in income of \$1,391.
- 5. Helton earned \$19,451 in commissions on the sale of viatical settlement contracts.
- 6. Helton provided the Securities Division with photocopies of checks that he had used to pay three investors returns on their investments totaling \$4,336.66.
- 7. Helton also provided the Securities Division with an invoice and photocopies of the canceled checks, in the amount of \$447.26, that he used to pay the premiums (for the year 2004) on a policy he sold to a Missouri investor. The viator insured by the policy has outlived his predicted life expectancy, resulting in a need for investors to make premium payments to protect their interest in the insurance policy.
- 8. Helton informed the investigator that he and several other salesmen joined together and filed a lawsuit against the promoters of the viatical policies and their associates. They hoped to obtain enough money through their lawsuit to pay future premiums on policies that were still in effect, thus protecting the interests of other investors, and to repay investors whose interests in viatical policies had been negated because the policies had lapsed.
- 9. The lawsuit, filed by Helton and others, resulted in one defendant entering into a settlement for \$682,500 plus interest with the plaintiffs.
- 10. Helton provided the Securities Division with copies of several court filings in the case and a settlement agreement between the parties. Included in those documents were photocopies of canceled checks Helton used to pay his portion of the legal fees for this civil action.
- 11. Helton's portion of the legal fees was in excess of \$11,000.
- 12. Respondent stipulates and agrees that, should the facts contained herein prove to be false or incomplete, the Missouri Division of Securities preserves the right to pursue any and all legal or administrative remedies at its disposal.

JURISDICTIONAL BASIS

- 12. Respondents and the Securities Division stipulate and agree that the Commissioner has jurisdiction over these matters pursuant to Chapter 409, et al of the Missouri Securities Act.
- 13. Respondents and the Securities Division stipulate and agree that the Commissioner has authority to enter this Consent Order pursuant to Section 409.6-604(h), of the 2003 Act, which provides that the commissioner is authorized to issue administrative consent orders in the settlement of any proceeding in the public interest under this act.

ORDER

WHEREAS, the Commissioner, after consideration of the stipulations set forth above and on the consent of Respondents and the Securities Division, finds the following Order to be in the public interest, necessary for the protection of public investors and consistent with the provisions of Chapter 409, RSMo Cumulative Supp. 2001.

NOW, THEREFORE, it is hereby Ordered that:

- 1. Respondent, his agents, employees and servants are prohibited from:
 - A. Offering and selling viatical settlement contracts in the state of Missouri in violation of Chapter 409, RSMo Cumulative Supp. 2003.
- 2. Respondent shall pay \$3,667.00 as disgorgement for the conduct that gave rise to this proceeding. Payment of this amount is due prior to or contemporaneous with the issuance of this order. Respondent shall pay the above ordered amount by cashier's check or money order made payable to The Missouri Secretary of State Investor Education Fund. Respondent shall deliver said payment to the Division of Securities, 600 W. Main Street, Jefferson City, Missouri 65102.
- 3. Respondent will pay his own costs and attorneys fees with respect to this matter.

SO ORDERED:

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY, MISSOURI THIS 2 DAY OF Question, 2004.

SSCURI

MATT BLUNT SECRETARY OF STATE

DOUGLAS M. OMMEN COMMISSIONER OF SECURITIES

Consented to by:

MAR D. DAVIS

SECURITIES ENFORCEMENT COUNSEL

PHILIP L. HELTON, RESPONDENT